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REMARKS

*Pls. note Mr. Magee's
note page 1*

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24111

MEMORANDUM FOR: Director of Personnel

FROM:

Liaison Division
Office of Legislative Liaison

DD/P-SP - George -
Thank Terry. It's a nice
job. Lots of stuff going to
fly before any results, so
page 2 comments.

SUBJECT: First House Post Office and Civil Service
Committee Hearing on Supplemental Retirement
(23 February 1984)

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SUMMARY: Yesterday the Administration and the Congress, in the person of the House of Representatives, officially joined in battle over the subject of supplemental retirement for new federal employees subject to social security. The lines of disagreement between the two were clearly drawn and both parties, while agreeing that they need to come to some agreement, are not about to do so over the near term. The major issues are how unattractive the new system will be, compared to the existing systems, and what, if anything, will be done to reduce benefits to participants of the existing systems (in our case, the Civil Service Retirement System and CIARDS). The House appears willing to support the existing level of federal employee retirement benefits, or something very nearly the same, while the Administration clearly is driven by a desire to reduce federal retirement costs

1. Attached for your information and use is a complete set of documentation resulting from the subject hearing yesterday. It includes the witness list and prepared statements of all participants. Also included is a summary of the questions and answers, albeit not a complete one I am afraid, that were exchanged between members of the Committee and the people testifying.

2. It is interesting to note that the testimony of Mr. Devine, Director of the Office of Personnel Management (OPM) did not get through the legislative clearance process within the Office of Management and Budget (OMB) in a timely fashion. In speaking with a House Post Office and Civil Service Committee staffer on Wednesday afternoon, the day before this hearing, he stated that the Committee had not received Mr. Devine's testimony and that the Committee was being told by OPM that it (the testimony) was being held up by OMB. In fact, Mr. Devine apologized to the Committee at the beginning of his testimony for not delivering his testimony on a timely basis (48 hours prior to the hearing) and acknowledged that he had had some problems with OMB.

3. As a result of this exchange, I have compared the draft testimony that we received from OMB with the testimony actually given by Mr. Devine yesterday. While the bulk of the changes are editorial in nature, a few substantive changes do seem to have been made. You will note at the top of page 5 of the final statement actually given by Mr. Devine that the first six lines have been added. They amplify on the point that the unfunded liability of current federal retirement systems is inconsistent with the law (ERISA) that requires private sector companies to fully fund their retirement plans on a current basis, and that if the government were held to the same private sector retirement law, that the current retirement costs for the federal government would be over 55% of payroll costs for a full 40 years, as opposed to something on the order of 14% in the private sector. At the top of page 10 of the final testimony, OMB added the phrase "...as well as the persons covered by the foreign service and CIA retirement systems,...". Further down on page 10, in the forth line of the FUNDING paragraph, OMB has added the phrase "...on a dynamic basis.." after the number \$515 billion. While this may appear insignificant, it has great meaning to a budgeteer.

4. The principal value of the hearing, it seems to me, was twofold. First, it was knowing formally for the first time where the Administration was coming from on the issue of supplemental retirement. Secondly, it was the exchanges that took place between Chairman Ford (D,MI) and Mr. Devine and Congressman Frank Wolf (R,VA) and Mr. Devine. Both Members of the Committee were strongly pro-federal employee in their statements and questions, while Mr. Devine was strongly pro-"we need to reduce the cost of federal retirement programs because they are too great a burden on the taxpayers compared to retirement costs in the private sector". In his opening remarks, the Chairman stated that he viewed existing federal retirement benefits for current (pre 1 January 1984) employees as a part of a binding contract that existed between the federal government and its employees that could not be breeched because there has been performance on the part of the employees, and that unless his recollection of his "Contracts 101" course in college was faulty, a contract in fact existed. The attached question and answer summary will give you an additional flavor of their exchanges.

Great!
Very important
addition. Can
anybody tell
me who at
OMB added
this? Cullivate
him.

5. I am also attaching a copy of Mike Causey's column in this morning's Washington Post because it is, in my judgment, a fairly accurate summary of some of what transpired yesterday.

6. The next scheduled hearing on this subject by this committee is 01 March 1984. At least three more are planned during March. I will attend and report on them as appropriate



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Attachments:
As stated

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The following summarizes the questions asked and answers provided during the course of the House Committee on Post Office and Civil Service hearing on supplemental retirement on 23 February 1984. It is not a complete summary, but rather is intended only to provide a flavor of the exchanges that took place.

Chmn Ford (D,MI): Is the unfunded liability problem that OPM talks about really a problem?

Hay/Huggins (a House Post Office/Civil Service Committee paid Consultant): It is not a real problem. Rather, it is a theoretical problem that would exist only if the federal government were a corporation in the private sector and subject to the ERISA law that governs the the funding and administration of private sector retirement and pension plans. In the public sector, it would only be a problem if one anticipated terminating the federal retirement programs that have accumulated this "unfunded liability", and no one is seriously considering doing that. Rather, it is merely a scare tactic that has no technical merit unless one plans to terminate one or more of the existing plans. My gosh, the Social Security system has an "unfunded liability" of some \$6 trillion, but you don't hear the Administration crying wolf about this one.

Chmn Ford: I understand that capital accumulation plans are becoming very popular in the private sector. Would you tell us something about them?

Hay/Huggins: Thrift/savings plans are the most popular type of capital accumulation plans in the private sector. The witness went on to describe a thrift plan in more detail.

Chmn Ford: Is a low paid or is a high paid employee better off with Social Security?

Hay/HUggins: A low paid employee is much better off, in retirement, with Social Security because of the built-in tilt that Congress intentionally incorporated into the system. Also, a short term employee is better off in Social Security than is a long term employee. The same is true of a married person as opposed to a single person, all because of the policy decisions the Congress made when they designed the Social Security system.

Chmn Ford: How does the private sector typically integrate its retirement/pension plans with Social Security?

Hay/Huggins: A company typically decides whether or not it wants to change the built-in tilts in Social Security or not. If it does, there are various ways of doing so, and of doing so to varying degrees. With respect to disability, typically social security picks up disability payments if the disability occurs before an employee retires or reaches retirement age, whereas the company retirement plan will typically cover the disability if it occurs at retirement age.

Chmn Ford: In the annual Hay survey of private sector retirement plans, what is the average size of the firms surveyed?

Hay/Huggins: Approximately one-third have less than 1,000 employees, some 60% are in the industrial sector, with the remaining 40% or so in the financial/services sector.

Chmn Ford: Is W.R. Grace Co. included in your survey?

Hay/Huggins: No, it is not, but to the extent that the company makes its retirement information public, we will be glad to collect it for you and compare it with any other system you may want.

Chmn Ford: Good. Please do so. We will be hearing from Mr. Grace at a later point during these hearings.

Cong. Wolf (R,VA): Do you really think that the Congress can get a new retirement plan enacted in 1985?

Hay/Huggins: I think so. You will have a lot of data available from which to design and debate the ultimate system, but I think there is time.

Cong. Wolf: Do you talk to federal employee groups formally in the conduct of your work for this Committee?

Hay/Huggins: Not normally, but we can do so if the Committee desires that we do so.

Chmn Ford: I do not think that this would be appropriate because the federal employee groups can and do express their wants and complaints directly to the Committee, and should continue to do so, rather than to our consultant.

Cong. Wolf: How do you do job comparisons and comparability studies between the private and public sector?

Hay/Huggins: We do it at the macro rather than the micro level. We do not compare individual jobs so much as we do large occupational series and types of industries.

Cong Wolf: What are you doing in your work for this Committee to protect current employees from losing any of their current retirement benefits?

Hay/Huggins: You are the people who will do that, but we will propose policy alternatives to you. There are at least two ways to do this, both having to do with funding. You can choose to amortize increased costs over a 20 or 30 or 40 year period, or you can choose to comingle contributions from the new system with funds from the old (Civil Service) system so that there is no disruption of the cash flow.

Cong. Wolf: Is the latter the best way to give present employees a warm feeling that their current benefits are safe?

Hay/Huggins: Probably, but that is a political question that requires a political action.

Chmn Ford: Have there been any fringe benefit improvements in the private sector in the last three years or so?

Hay/Huggins: Not much. There have been some gains (dental and orthodontia coverages are better, more capital accumulation plans are available, and COLA protection is generally better), but there have also been some losses (mainly a greater sharing by the employee of continually escalating hospitalization and medical costs). The net effect has been about break-even.

Cong. Wolf: Will the eventual supplemental retirement system be better or worse than the existing system?

Hay/Huggins: That is an open ended question and I will give you an open ended answer. We will recommend to you a baseline system that will cost just what the current system costs, although the component pieces may differ. We will then provide you with a whole range of additive and deductive features from which you can choose as you go about making the policy/design decisions, together with the costs associated with each. In the final analysis, you will answer your own question.

Cong. Wolf: Do you see problems with side by side employees receiving different retirement benefits?

Hay/Huggins: Probably, but this dilemma exists all over the place. We will describe some of the problems that occur in this type situation and will tell you some of the things you might do to mitigate the situation.

Chmn Ford: Are you suggesting in your testimony that current federal employees will not get benefits.....?

Mr. Devine (Director, Office of Personnel Management): We need to structure a financing plan to amortize the unfunded liability over a 30 year or 40 year period to ensure that we can pay all the benefits of our current (pre-1/1/84 hirees). The unfunded liability of some \$515 billion is not an insignificant one, although I understand one of your earlier witnesses may the point that this was not really a problem.....

Chmn Ford: Are you suggesting by your testimony that some \$7 trillion of Social Security undunded liability is also a very real concern and that we should amortize that debt in the same fashion, scaring all of the people in this country in the process? And don't tell me that comparing the federal government situation with companies in the private sector subject to ERISA is a relvant comparison.

Mr. Devine: ".....". His answer was a long, rambling, generally unintelligible one. In sum, the Chairman and Mr. Devine agreed to disagree on whether or not the unfunded liability of federal retirement systems was a real problem or whether it was a theoretical one.

Chmn Ford: I take you at your word when you tell me that the Administration wants to work with the Congress, but I would be remiss if I did not take you to task for the case you are trying to make to this Committee. You have blatantly misused statistics throughout your presentation (Chmn Ford proceeded to cite several examples). We need good data and facts in designing this new retirement system, not a lot of extraneous data intentionally pulled together out of context, or otherwise, to make a point. I urge you not to become a budget advocate for the Administration at the expense of sound personnel management practices and theories.

Mr. Devine: Our intent is to be practical and to constructively work towards the design of a new system. We too are worried about a brain drain from the Executive Branch, but in our case it is because we see qualified, experienced employees at the height of their productive careers leaving the government because of a retirement system that allows them to do so, to the detriment of all of us, as opposed to retirement practices in the private sector that require such employees to remain until age 60, or 62, or 65.

Chmn Ford: Will the Administration consider qualifying the federal government so that the benefits of a 401k plan can be offered to federal employees?

Mr. Devine: We are interested in all such ideas and are willing to work with the Congress in developing approaches to a new supplemental retirement system.